

IN THE SUPREME COURT OF MISSISSIPPI  
CAUSE NO. 2007-~~18~~-00990  
CP

ORIGINAL

**FILED**

JAN 29 2008

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

DELRICK MINOR

VS.

STATE OF MISSISSIPPI

ON APPEAL FROM THE CIRCUIT COURT OF  
MAJESON, COUNTY, MISSISSIPPI

MOTION FOR POST-CONVICTION COLLATERAL RELIEF  
PURSUANT TO M.C.A. (1972) § 99-39-1

151 DeLrick Minor

DELRICK MINOR \*118817

S.M.C.T.\*2

P.O BOX 1419

LEAKESVILLE, MS

39451

# TABLE OF CONTENTS

	<u>PAGE(S)</u>
COVER LETTER . . . . .	I,
TABLE OF CONTENTS . . . . .	III,
TABLE OF AUTHORITIES . . . . .	IV,
MOTION FOR POST-CONVICTION COLLATERAL RELIEF . . . . .	1,
CONCLUSION OF LAW . . . . .	6,
CERTIFICATE OF SERVICE . . . . .	7,
TRIAL TRANSCRIPT . . . . .	8,

## TABLE OF AUTHORITIES

<u>CASES:</u>	<u>PAGES</u>
<u>MEYER V. STATE</u> , NO. 2007-73-00990..	I, II, 1,
<u>MEYER V. STATE</u> , NO. 2005-0566 .....	2,
<u>PRESLEY V. STATE</u> , 474 So. 2d 612 (Miss.	
1985) .....	3, 4, 5,
<u>WATSON V. AULT</u> , F. 886 (5th Cir.	
1976) .....	6,
<u>FERRETTA V. CALIFORNIA</u> , 422 U.S.	
806 (1975) .....	6,
<u>HAYNES V. KERNER</u> , 404 U.S. 519, 92	
S.Ct., 594, 30 L. Ed. 2d 652 (1972) .....	6,

### MISSISSIPPI CODES:

99-39-1 .....	II, 1,
---------------	--------

### UNIFORM RULES OF CIRCUIT AND COUNTY COURT PRACTICE:

Rule. 11.02 .....	3,
-------------------	----

### CONSTITUTION AMENDMENT:

8th Amendment .....	3,
---------------------	----

IN THE SUPREME COURT OF MISSISSIPPI

HERECK MINOR

APPELLANT

VS.

CAUSE NO. 2007-TS-00990

STATE OF MISSISSIPPI

APPELLEE

MOTION FOR POST-CONVICTION COLLATERAL RELIEF

COMES NOW, HERECK MINOR, PROSE APPELLANT, WITHOUT THE BENEFIT OF COUNSEL, AND FILES HIS MOTION FOR POST-CONVICTION COLLATERAL RELIEF, PURSUANT TO M.C.A. (1972) 99-39-1, ET SEQ (SUPP. 1992) AND MOVE THIS HON. COURT TO GRANT THIS MOTION TO REVERSE THE TRIAL COURT DECISION AND REMAND FOR RE-SENTENCING AND IN SUPPORT THEREOF, WOULD SHOW UNTO THIS HON. COURT THE FOLLOWING:

PROCEDURAL HISTORY

THAT ON OR ABOUT 2-22-06, THE APPELLANT ENTERED A PLEA OF GUILTY TO THE CHARGE OF AGGRAVATED ASSAULT IN THE CIRCUIT COURT OF MADISON COUNTY, AND ON THAT SAME DAY, WAS SENTENCED TO SERVE A TERM OF TWENTY (1.)

(30) YEARS WITHIN THE MISSISSIPPI DEPARTMENT OF CORRECTION BY THE PRESIDING HON. JUDGE WILLIAM E. CHAPMAN. (T. AT. PLS. 18-19)

AFTER FEELING THAT HIS SENTENCE WAS UNJUST, THE APPELLANT RESPECTFULLY SUBMITTED HIS MOTION FOR POST-CONVICTION COLLATERAL RELIEF.

NEVERTHELESS, ON OR ABOUT 9-13-07, THE STATE COURT (HENCE) THE APPELLANT'S MOTION FOR POST-CONVICTION COLLATERAL RELIEF. SEE: MAJOR II. STATE NO. 0005-0566

AFTER BECOMING ALGRAVATED BY THE CIRCUIT COURT (HENCE) OF HIS MOTION FOR POST-CONVICTION COLLATERAL RELIEF, THE APPELLANT RESPECTFULLY SUBMITTED HIS NOTICE OF APPEAL, HESTING ACTION OF RECORDS, CERTIFICATE OF COMPLIANCE AND APPLICATION TO PROCEED IN FORMA PAUPERIS, ON OR ABOUT 3-14-07.

# ARGUMENT IN SUPPORT OF GRANTING APPEAL

## LEGAL ARGUMENT

WHETHER APPELLANT'S IMPOSED SENTENCE BY THE TRIAL COURT WAS DISPROPORTIONATE AND VIOLATED THE DUE PROCESS AS DESCRIBED RULE 11.02 OF THE UNIFORM RULES OF CIRCUIT AND COUNTY COURT PRACTICE

ACCORDING TO RULE 11.02 OF THE U.R.C.C.P., THE TRIAL COURT MUST CONSIDER ALL FACETS BACKGROUND AND RECORDS AT A SENTENCING HEARING IN ORDER THAT A JUST AND PROPER SENTENCE MAY BE IMPOSED, EVEN WHEN APPELLANT AND HIS ATTORNEY FAILS TO PREPARE AND COMPLETE SENTENCING RECORD. PRESLEY v. STATE, 474 S.O.2D 612 (MISS. 1985); U.S.C.A. CONST. 8TH AMEND.

HOWEVER, THE SUPREME COURT OF MISSISSIPPI NOTED IN THE CASE OF PRESLEY, THAT AN ADEQUATE PRESENTENCE INVESTIGATION HAD NOT BEEN HELD PRIOR TO IMPOSITION OF SENTENCE. THEREAFTER, THE CASE WAS REMANDED BACK TO THE LOWER COURT TO CONSIDER AND PASS UPON ALL MATTERS RELEVANT TO SENTENCE... AT 612.

THE COURT ASCERTAINED THAT PRESLEY WHOM HAD BEEN SENTENCE TO FORTY (40) YEARS FOR  
(3.)

THE CRIME OF ARMED ROBBERY HAS RECEIVED A SENTENCE THAT WAS DISPROPORTIONATE TO THE CRIME COMMITTED. FURTHERMORE, IT SHOULD BE SPECIFICALLY NOTED THAT PRESLEY WAS NOT A FIRST TIME OFFENDER.

IN FACT PRESLEY WAS A VETERAN CRIMINAL WITH EIGHT (8) CRIMES TO HIS RECORD AND YET NOT TO FACILITATE THE CRIME HE WAS CON- VICTED OF IN THAT INSTANCE.

WHEN COMPARING THE APPELLANT'S CASE AT BAR, THE SENTENCE IMPOSED UPON THE APPELL- ANT APPEARS TO BE DISPROPORTIONATE. "THE TRIAL COURT WAS AWARE THAT THE APPELLANT IS A FIRST TIME OFFENDER WHOM SUCCESSFUL MANNER, AS THE RECORD DISPLAYS THE APPELLANT HAS "NO PAST FELONIOUS RECORD" (T. AT. PG. 18)

IT CAN BE ESTABLISHED FROM THE RECORDS THAT THE INCIDENT WHICH OCCURRED IN THIS MATTER WAS AN ISOLATED SPONTANEOUS ONE WHICH THE APPELLANT HAD NO CONTROL OVER AND ACTED PURELY ON EMOTIONAL REFLEX TO PROTECT HIS FAMILY MEMBER DURING THE ALTE- RICATION WHICH OCCURRED BETWEEN VICTIM AND

FAMILY MEMBER.

IT CAN'T BE HELD THAT THE TWENTY (20) YEAR SENTENCE THE APPELLANT RECEIVED (T. AT. PG. 18-19) IN THIS MATTER PROPORTIONATE WHICH THE MANIFEST SET FORTH IN THE FORE-  
CITED AUTHORITIES.

FURTHER, NOT ONLY HAS THE COURT HELD THAT SENTENCE HANDLED DOWN IN PRESLEY TO BE DISPROPORTIONATE, IT FURTHER HELD THAT THE SENTENCING HEARING WAS INADEQUATE DUE TO THE LACK OF MITIGATING CIRCUMSTANCE BEING SUBMITTED ON PRESLEY'S BEHALF.

INDEED, THE APPELLANT WAS DISALLOWED A SENTENCING HEARING IN THIS MATTER AS IS REFLECTED BY THE TRIAL TRANSCRIPTS. (T. AT. PG. 17)

THEREFORE, THE APPELLANT WAS UNABLE TO PUT ON ANY MITIGATING CIRCUMSTANCE.



## CONCLUSION OF LAW

THE APPELLANT PROSE REPRESENTATION IS A LADMAN AT LAW AND ASK THIS HON. COURT TO CONSTRUCT THE FACTS OF THIS CAUSE UNDER THE AUTHORITY OF WATSON V. AULT, F. 2<sup>D</sup> 886 (5<sup>TH</sup> CIR. 1976); FERRETTA V. CALIFORNIA, 422 U.S. 806 (1975) AND HAYNES V. KERNER, 404 U.S. 519, 92 S. CT, 594, 30 L. ED. 2<sup>D</sup> 652 (1972). IN THAT PROSE PLEADING ARE TO BE CONSTRUCTED WITH A LENIENT EYE AND ARE NOT TO BE HELD TO THE STANDARDS OF ATTORNEYS.

APPELLANT FURTHER PRAYS THAT THIS PETITION BE CONSTRUCTED UPON THE DOCTRINE OF EXCUSEABLE ERROR WITHOUT BEING SCRUTINIZED FOR THE EXCELLENCE OF AN ATTORNEY."

WHEREFORE, PREMISES CONSIDER, APPELLANT RESPECTFULLY REQUEST THIS HON. COURT TO REVERSE THE TRIAL COURT DECISION AND REMAND FOR RE-SENTENCING IN THE INTEREST THAT JUSTICE REQUIRES.

151 Medic Minor

PROSE / APPELLANT

# CERTIFICATE OF SERVICE

T. HERICK MINOR, DO HEREBY CERTIFY THAT  
I HAVE THIS DATE CAUSE TO BE MADE A  
TRUE AND CORRECT COPIES OF THE ABOVE "MOT-  
ION FOR POST-CONVICTION COLLATERAL RELIEF,"  
NTA THROUGH "T.L.A.P," P.O BOX 1419, LEAKES-  
VILLE, MS. 39451 TO THE FOLLOWING:

CLERK OF COURT  
P.O BOX 249  
JACKSON, MS 39205

ATTORNEY GENERAL  
P.O BOX 220  
JACKSON, MS. 39205-0220

HONE THIS THE 29 DATE OF January 2007.

151 Herick Minor #118817

HERICK MINOR \*118817

S.M.C.T \*2

P.O BOX 1419

LEAKESVILLE, MS. 39451

< 7 >

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

IN THE CIRCUIT COURT OF MADISON COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

DEFENDANT

DEDRICK DEMOND MINOR

NO. 2005-0566

\*\*\*\*\*

TRANSCRIPT OF THE PROCEEDINGS HAD AND DONE  
IN THE GUILTY PLEA HEARING OF THE ABOVE STYLED  
AND NUMBERED CAUSE, BEFORE THE HONORABLE  
WILLIAM E. CHAPMAN, III, CIRCUIT JUDGE,  
ON THE 22ND DAY OF FEBRUARY, 2006.

\*\*\*\*\*

REPRESENTING THE STATE OF MISSISSIPPI:

HONORABLE SCOTT E. ROGILLIO  
Assistant District Attorney  
Post Office Box 121  
Canton, Mississippi 39046

REPRESENTING THE DEFENDANT:

HONORABLE WALTER E. WOOD  
Attorney at Law  
356 Highway 51, Suite G  
Ridgeland, Mississippi 39157

1 THE COURT: We're here on case number

2 2005-0566, State versus Dedrick Demond Minor. Is he  
3 pleading guilty to -- it's a two-count indictment.

4 He is pleading guilty count two, the aggravated

5 assault?

6 MR. WOOD: Yes, your Honor.

7 **DEDRICK DEMOND MINOR,**

8 Having been first duly sworn, testified as follows:

9 **DIRECT EXAMINATION BY THE COURT:**

10 Q. Do you understand that you are now under

11 oath and your answers will be sworn answers under

12 penalty of perjury?

13 A. Yes, sir.

14 Q. You are the defendant in this case?

15 A. Yes, sir.

16 Q. You were born on May 31, 1981?

17 A. Yes, sir.

18 Q. Your social security number is 427-39-8214?

19 A. Yes, sir.

20 Q. You have completed eleven years of school?

21 A. Yes, sir.

22 Q. Have you ever been treated for any mental

23 illness or disorder?

24 A. No, sir.

25 Q. Are you under the influence of any drugs or

26 alcohol?

27 A. No, sir.

28 Q. Did you read and sign your petition to enter

29 a guilty plea?

1 A. Yes, sir.  
 2 Q. Do you understand everything in it?  
 3 A. Yes, sir.  
 4 Q. Is everything in it true and correct?  
 5 A. Yes, sir.  
 6 Q. Have you had an opportunity to fully discuss  
 7 with your attorney, Mr. Walter Wood, all facts and  
 8 circumstances relating to the crime you're pleading  
 9 guilty to?  
 10 A. Well, we talked, but, you know, I didn't  
 11 really have -- yeah, we talked, yeah.  
 12 Q. Well, did you have an opportunity to fully  
 13 discuss all facts and circumstances relating to the  
 14 crime you are pleading guilty to?  
 15 A. Yes, sir.  
 16 Q. Did you tell him all facts you believe might  
 17 be necessary for your defense?  
 18 A. Things like what, sir?  
 19 Q. Any fact you think might be necessary to  
 20 your defense?  
 21 A. Like I never been charged with a felony and  
 22 all that?  
 23 Q. Any fact. Did you tell him any fact you  
 24 believe might necessary to your defense?  
 25 A. What is he talking about?  
 26 MR. WOOD: He said did you leave anything  
 27 out.  
 28 A. Leave anything? No.  
 29 MR. WOOD: In that case, though, you did

1 tell me all the facts you thought were necessary to  
2 your defense?

3 A. We didn't even talk about it. You didn't  
4 get with me to talk about it.

5 Q. (The Court, continuing) Well, you know what  
6 you need to do? You need to talk to -- do you need  
7 to talk to Mr. Wood any more about any facts that are  
8 necessary to your defense?

9 A. I do think you can help me any, anymore?

10 MR. WOOD: No, I don't think they're  
11 going to give you a better offer, if that's what  
12 you're asking me.

13 A. Because I never been charged with no felony,  
14 and I ain't really do nothing.

15 MR. WOOD: We talked about everything  
16 that happened that night.

17 A. Yes, sir.

18 Q. (The Court, continuing) Let me ask you this.  
19 Have you had an opportunity to talk to Mr. Wood?

20 A. Once, yeah, once I have.

21 Q. Do you want to talk to Mr. Wood some more?  
22 A. No, sir.

23 Q. Do you think you need to talk to Mr. Wood  
24 some more?

25 A. He ain't going to help me no more than I am

26 now, sir. I gave it to the Lord.

27 THE COURT: I'm not taking this guilty

28 plea. You can go to trial.

29 A. I'll take it.

THE COURT: No, sir.

A. I just, you know what I'm saying, I gave it to the Lord and I'm going to let the Lord --

THE COURT: I tell you what I'm going to

do. You can go talk to Mr. Wood. And if you decide you want to plead guilty then, you can plead guilty. and I'll take it. But what you're telling me is you haven't had an opportunity to talk to Mr. Wood, and I'm not going to take a guilty plea whenever --

you're basically standing up there with a little bit of an attitude trying to say you didn't do anything but you're going to plead guilty -- enough. Take him out of here.

A. Can I have one more thing to say?

THE COURT: No, sir. You can go talk to

Mr. Wood.

(RECESS)

THE COURT: We're back on the record now

here. Mr. Minor has had an opportunity to speak

further with his attorney, Mr. Wood.

Q. (The Court, Continuing) Before I proceed any

further, Mr. Minor, now look, if you don't want to

plead guilty, you don't have to. I don't care

whether you plead guilty or not, and we'll give you a

trial on March 7th. Do you want to continue with

this guilty plea or not?

A. Yes, sir.

Q. You're going to have to lean over and speak

up. I'm going ask you again, have you had an

1 opportunity to fully discuss with your attorney, Mr.  
 2 Walter Wood, all facts and circumstances related to  
 3 the crime you are pleading guilty to?

4 A. Yes, sir.

5 Q. Did you tell him all facts you believe might  
 6 be necessary for your defense?

7 A. Yes, sir.

8 Q. Did your discussions with him include the  
 9 elements of the crime?

10 A. Yes, sir.

11 Q. Count one is the count he is pleading guilty  
 12 to, the aggravated assault. Those elements are on or  
 13 about July 1, 2005, you did purposefully, knowingly  
 14 and feloniously cause or attempt to cause bodily  
 15 injury to Michael M. Franklin, by shooting such  
 16 individual with a firearm, a deadly weapon, in  
 17 Madison County, Mississippi. Do you understand those  
 18 elements?

19 A. Yes, sir.

20 Q. Do you understand you have a right to a  
 21 trial by jury and each of the twelve jurors must be  
 22 convinced beyond a reasonable doubt of your guilt  
 23 before you can be found guilty and sentenced?

24 A. Yes, sir.

25 Q. Should you choose to go to trial, you would  
 26 have the right to confront and cross examine  
 27 witnesses who would testify against you and the right  
 28 to subpoena witnesses to testify on your behalf. Do  
 29 you understand those rights?



1	A. Yes, sir.
2	Q. You would also have the right to remain
3	silent, and the court would instruct the jury that no
4	adverse inference could be drawn from your decision
5	not to testify. Do you understand those rights?
6	A. Yes, sir.
7	Q. Should the jury verdict be against you, you
8	would have the right to an appeal. If you could not
9	afford the cost of that appeal, that cost and the
10	cost of your attorney would be paid for you by the
11	state. Do you understand that?
12	A. Yes, sir.
13	Q. Do you understand that by pleading guilty,
14	you will be waiving those constitutional rights?
15	A. Yes, sir.
16	Q. Are you telling the court it is your desire
17	to waive those rights and proceed with your guilty
18	plea?
19	A. Yes, sir.
20	Q. Do you understand the minimum sentence for
21	the crime are you pleading guilty to is zero years
22	incarceration?
23	A. Yes, sir.
24	Q. Do you understand the minimum fine is zero
25	dollars?
26	A. Yes, sir.
27	Q. Do you understand the maximum sentence is 20
28	years incarceration?
29	A. Yes, sir.

Q. Do you understand the maximum fine is ten

thousand dollars?

A. Yes, sir.

Q. Do you have any felony convictions anywhere?

A. No, sir.

THE COURT: What's the factual basis?

MR. ROGILLIO: Your Honor, the State

would show that on July 1st, 2005, in Madison County, Mississippi, this defendant and a codefendant entered an out building for the purpose of a drug transaction involving the occupants, including the victim in this case, Mr. Michael Franklin. An argument occurred as to the amount of drugs and/or the amount paid for the drugs, which turned into a struggle. This defendant eventually shot Mr. Michael Franklin in the abdomen. Mr. Franklin survived his injuries.

Q. (The Court, continuing) Do you have any

disagreement with the factual basis?

A. No, sir.

THE COURT: Mr. Wood, do you have any

disagreement with the factual basis?

MR. WOOD: No, your Honor.

Q. (The Court, continuing) Have any threats

been made against you or has there been any use of force or intimidation that might have caused you to change your plea from not guilty to guilty?

A. No, sir.

Q. Have any promises or hope of reward been

made to you in return for your changing your plea

1 from not guilty to guilty?

2 A. No, sir.

3 Q. After your discussions with your attorney,

4 are you the one that decided to plead guilty?

5 A. Yes, sir.

6 Q. Are you telling the court that you're freely  
7 and voluntarily admitting your guilt to the crime you  
8 are pleading guilty to?

9 A. Yes, sir.

10 Q. Are you pleading guilty because you are

11 guilty and for no other reason?

12 A. Yes, sir.

13 Q. Do you understand the court is not bound by

14 the plea bargain agreement but could impose the

15 maximum sentence?

16 A. Yes, sir.

17 THE COURT: Is there a claim for

18 restitution?

19 MR. ROGILLIO: No, your Honor.

20 Q. (The Court, continuing) Do you understand if  
21 the court accepts your guilty plea, you would have no  
22 right to appeal your sentence?

23 A. No right to appeal? Yes, sir.

24 Q. Are you satisfied with your attorney's

25 representation of you?

26 A. Yes, sir.

27 Q. Do you have any complaints you wish to make

28 about him?

29 A. No, sir.

1 Q. Do you have any questions concerning your  
2 rights or the crime you are pleading guilty to?

3 A. I don't have no questions.

4 Q. Do you have any questions about anything?

5 A. Well, I would like to make a statement.

6 Q. I'll get to that point. Do you have any

7 questions?

8 A. No, sir.

9 THE COURT: What's the recommendation?

10 MR. ROGILLIO: Your Honor, the State

11 would recommend to the court this defendant be

12 sentenced to serve 20 years in the custody of the

13 Mississippi Department of Corrections. Also as part

14 of the plea bargain, your Honor, the State would have

15 a motion to dismiss count two, which is a murder

16 charge in this instance, involving the struggle of

17 the codefendant along with the defendant, as this

18 defendant, as accessory before the fact, the State

19 would show, entered the building with the same facts

20 as stated earlier. In the struggle, another

21 individual was killed in this instance. And I

22 believe your Honor may recall those facts as we

23 stated in the previous guilty plea.

24 THE COURT: You said count two, it's

25 actually count one is the murder count.

26 MR. ROGILLIO: Yes, sir.

27 Q. (The Court, continuing) Is that the

28 recommendation you expected to hear?

29 A. Yes, sir.

1 Q. At this point it's not too late to stop the  
2 hearing, but it will be if I accept your guilty plea,  
3 and I want to be certain that you want to plead  
4 guilty. Do you want to plead guilty?  
5 A. Yes, sir.  
6 Q. That's all you're pleading guilty to is to  
7 count two, the aggravated assault?  
8 A. Yes, sir.  
9 Q. Do you want to plead guilty to that?  
10 A. Yes, sir.  
11 Q. Do you have any questions?  
12 A. I have no questions.  
13 Q. Do you want to make any statements before  
14 you plead guilty?  
15 A. I'd love to make a statement. This is my  
16 first time ever being locked up, period, you know.  
17 And I have two kids out there that I just had that I  
18 would love to be out there. I don't feel like doing  
19 no 20-year sentence.  
20 Q. You're going to have to get up to the  
21 microphone and slow down.  
22 A. I'm sorry. I really don't want to do no 20-  
23 year sentence over no aggravated assault. This is my  
24 first time ever being locked up. And really, you  
25 know, this is really killing me inside. But I really  
26 love to just have, I have another chance at life to  
27 get out there with my kids to do the right thing, but  
28 things happen, and I can't change it, you know what  
29 I'm saying. I'm really, you know what I'm saying,

1 sorry for what I did.

2 Q. Let me ask you this: You said you don't

3 want to do no 20 years?

4 A. Yes, sir.

5 Q. My question to you is do you want to go

6 forward with this guilty plea?

7 A. I don't have no choice because the assault

8 was --

9 Q. No, you've got plenty of choices. If you

10 don't want to --

11 A. And I did assault --

12 Q. Don't interrupt me. You've got plenty of

13 choices. If you don't want to go forward with this

14 guilty plea, you've got to say now, because I'm

15 getting ready to ask you how do you plead to

16 aggravated assault, guilty or not guilty. I'm going

17 to tell you even beforehand, if you say, I plead

18 guilty, I'm going to accept the State's

19 recommendation that was made in the plea bargain

20 between you and the State, and I'm going to sentence

21 you to 20 years, and I want you to know that before

22 we go forward. Because if you say guilty, I'm going

23 to sentence you to 20 years. If you don't want to go

24 forward with this, now is the time to say, and you

25 will get a trial on March 7th, and I don't care

26 either way.

27 A. I'm not going to have no time suspended or

28 anything like that?

29 Q. You're not answering my question. Do you

1 want to go forward with this guilty plea under those  
2 circumstances?

3 A. No, sir, I don't.

4 Q. You need to understand this: You will go to

5 trial on March 7th for murder under count one and

6 aggravated assault under count two. Do you

7 understand that?

8 A. Yes, sir.

9 Q. Is there any comment from the State on any

10 of this?

11 MR. ROGILLIO: The only comment I would

12 make, your Honor, is that he would understand also

13 that if he is convicted of murder, it is life

14 imprisonment, and he had spoken of some second

15 chance. The State would only say to the court

16 directly, your Honor, that we took that into

17 consideration in making the plea bargain as to this

18 was his first offense. There was somebody killed,

19 and this was a drug transaction, and I think there's

20 plenty aggravation to show a 20-year recommendation

21 is justified. If he wants to take his chances, he is

22 more than welcome to. We'll put our witnesses up

23 there. If they find him guilty of murder, then I

24 believe the court can instruct the defendant that

25 there is but one sentence he will get, and that is

26 life imprisonment. There is no choice after that.

27 MR. WOOD: The district attorney is

28 leaving out the confession.

29 MR. ROGILLIO: Yes, sir. And there is,

1 in fact, the State would show that we did not say in  
2 the evidence as stated in what we would prove, this  
3 defendant admitted to going over there. May we  
4 approach, your Honor?

5 THE COURT: Yeah.

6 (BENCH CONFERENCE)

7 THE COURT: Anything further from the

8 State?

9 MR. ROGILLIO: The only thing further,

10 your Honor, is that this deal is good for today and  
11 today only. If this defendant chooses to exercise

12 his right to trial, it's very probable we will have

13 the witnesses prepared on March 7th to go forward on  
14 the murder trial. I'm positive Mr. Wood has

15 instructed this defendant as to accessory before the  
16 fact and that he was involved in the murder before

17 the crime was committed. He is just as guilty as if  
18 he pulled the trigger on that instance. And that

19 regardless, he has today to get this guilty plea done  
20 if he wants to. If he does not want to, fine, we'll

21 be prepared and have the witnesses here March 7th.

22 THE COURT: I'm not getting involved in

23 the plea bargain, but am I to understand this is the  
24 usual position of the State? If he doesn't accept

25 this offer and plead guilty today, it's going to be

26 withdrawn?

27 MR. ROGILLIO: Yes, sir.

28 Q. (The Court, Continuing) Do you understand

29 that, Mr. Minor?



1 A. Yes, sir, I take it and go on and get it

2 over with.

3 MR. WOOD: I am advised that my client

4 would like to proceed with his guilty plea.

5 Q. (The Court, Continuing) Do you want to talk

6 to Mr. Wood any more?

7 A. No, sir.

8 THE COURT: Now you said something that I

9 didn't know from the previous guilty plea, and that

10 is, there is a confession by this defendant?

11 MR. ROGILLO: Yes, sir. He confessed to

12 going over there for the purpose of selling drugs,

13 and things got out of hand and that he was the one

14 that pulled the trigger and shot Mr. Weston. There

15 was a wound across the front of his stomach.

16 A. No, Michael.

17 MR. ROGILLO: Michael, excuse me. He

18 knows better than I do, your Honor. He has corrected

19 me as to the victim's name. And he has confessed,

20 whether he knows it or not, to be an accessory before

21 the fact.

22 Q. (The Court, Continuing) Now, do you want to

23 go forward, Mr. Minor?

24 A. No, sir.

25 MR. WOOD: He is saying do you want to go

26 ahead and proceed with your guilty plea?

27 A. Yes, sir.

28 Q. (The Court, Continuing) Do you want to plead

29 guilty?

1 A. I plead guilty, sir.

2 Q. Do you want some time to think about this?

3 I'm going to be here all day today. Do you want to

4 talk to Mr. Wood and think about it some more?

5 A. May I talk to him just for a second outside?

6 It won't take me but a second.

7 THE COURT: You can talk to him as long

8 as you want to talk to him. It doesn't matter to me.

9 A. I have just a question to ask him.

10 Q. That will be fine.

11 (RECESS)

12 Q. (The Court, Continuing) Mr. Minor, you've

13 talked to Mr. Wood. Do you need to talk to him any

14 more?

15 A. I'm accepting it.

16 Q. Do you want to go forward with the guilty

17 plea?

18 A. Yes, sir.

19 Q. And you understand the recommendation is

20 that you be sentenced to 20 years on the aggravated

21 assault?

22 A. Yes, sir.

23 Q. And you understand that I'm going to accept

24 that recommendation and sentence you to 20 years if

25 you plead guilty?

26 A. Yes, sir.

27 Q. And you still want to go forward?

28 A. Yes, sir.

29 Q. Do you have any questions?

1 A. No, sir.

2 Q. As to count two of the indictment, the

3 aggravated assault charge, how do you plead, guilty

4 or not guilty?

5 A. Guilty.

6 THE COURT: Mr. Wood, do you know of any

7 reason why defendant's plea of guilty should not be

8 accepted?

9 MR. WOOD: No, your Honor.

10 THE COURT: The court finds the

11 defendant's plea of guilty is freely, voluntarily,

12 knowingly and intelligently made and entered and

13 further finds it has a factual basis. The court

14 therefore accepts defendant's plea of guilty and

15 adjudicates him to be guilty of aggravated assault.

16 A judgment of conviction will be entered. I don't

17 believe there's a need for a PSI, so I'll proceed to

18 sentencing. Anything on behalf of the defendant, Mr.

19 Wood?

20 MR. WOOD: Yes, sir. Did you want to

21 talk to him about what your sentence ought to be?

22 A. What my sentence ought to be? Like what?

23 MR. WOOD: You said you had some things

24 you wanted to tell him.

25 A. You already said I'm not going to get no

26 time suspended or nothing like that.

27 Q. (The Court, Continuing) I told you what I

28 was going to do if you pled guilty because I didn't

29 want you to think anything otherwise than what was

going to happen?

A. Yes, sir.

Q. Anything else you want to say?

A. I don't know, sir, just really, you know

what I'm saying, no.

THE COURT: All right, nothing else you

want to say? As I said, I'm going to accept the

State's recommendation. And quite frankly, Mr.

Minor, you may not realize this now, but you made a

wise decision to plead guilty. Because in my

experience here in Madison County as a prosecutor and

a judge, it would not have taken the jury very long

to convict you of murder and aggravated assault if

you had gone to trial, regardless of Mr. Wood's great

trial ability, and I mean that seriously, not in any

other manner. You would have been convicted, and you

would have been sentenced to life in the

penitentiary, which is a lot longer than 20 years.

And you may not feel that you made the right

decision, but I think you did. Now, in your comments

once before, in your comments earlier, you basically

were saying that this was your first time in trouble

or first time you've ever committed a felony and that

you had children you needed to be with, and I want to

say to you that you might should have thought about

that before you came into Madison County and was

selling drugs in a situation in which one person was

killed and one person was almost killed.

In that regard, it will be the order of

1 the court that you be sentenced to a term of 20 years  
2 in the custody of the Mississippi Department of  
3 Corrections. Further order that you pay court costs,  
4 fees and assessments in the amount of \$254.50 within  
5 180 days after your release from custody.  
6 MR. ROGILLIO: Also, your Honor, just so  
7 he'll know, I'm sure it's mandatory that he will be  
8 given credit for the time he's already served in  
9 pretrial detainment.

10 THE COURT: It's in the order, and it's  
11 required by statute. Anything further?  
12 MR. ROGILLIO: We have a motion to nolle  
13 prosecute the murder charge.

14 THE COURT: Count one will be nolle  
15 prosecuted. Anything further?  
16 A. Your Honor, is there any kind of way I could  
17 like go to the RID or anything?  
18 THE COURT: Go to what?

19 A. To the RID program?

20 THE COURT: No, sir. I've sentenced you  
21 to the agreed-upon sentence in the plea bargain.  
22 A. I appreciate it.

23 THE COURT: Good luck.

24 \* \* \* HEARING CONCLUDED \* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

**COURT REPORTER'S CERTIFICATE**

STATE OF MISSISSIPPI  
COUNTY OF MADISON

I, Karen S. Rowzee, Official Court Reporter for the Twentieth Circuit Court District of the State of Mississippi, do hereby certify that to the best of my skill and ability I have reported the proceedings had and done in the guilty plea hearing of State of Mississippi versus Dedrick Demand Minor, being number 2005-0566 on the docket of the Circuit Court of the Twentieth Judicial District of Madison County, Mississippi, and that the above and foregoing 19 pages contain a true, full and correct transcript of my stenographic notes and tape taken in said proceedings.

I do further certify that my certificate

attached hereto applies only to the original and certified transcript. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction. This the 30th day of November, 2006.

*Karen S. Rowzee*  
KAREN S. ROWZEE  
CSR #1109